Air quality control region	SO_2		PM_{10}	NO_2	CO	O_3
	Primary	Sec-ondary				
NH portion Merrimack Valley-Southern NH Interstate 121:						
Belknap County	a	b	a	a	a	a
Sullivan County	a	b	a	a	a	a
Cheshire County	a	b	a	a	a	d
Portmouth-Dover-Rochester area (See 40 CFR 81.330)	a	b	a	a	a	e
NH portion Boston-Lawrence-Worcester area (See 40 CFR 81.330)	a	b	a	a	a	f
Manchester area (See 40 CFR 81.330)	a	b	a	a	a	c

a. Air quality levels presently below primary standards or area is unclassifiable.
b. Air quality levels presently below secondary standards or area is unclassifiable.
c. November 15, 1993.
d. November 15, 1995.
e. November 15, 1999.
f. November 15, 2007.

3. Section 52.1534 of subpart EE is amended by adding paragraph (b) to read as follows:

§ 52.1534 Control strategy: Ozone

* * * * *

(b) Approval—Revisions to the State Implementation Plan submitted by the New Hampshire Department of Environmental Protection on June 1, 1998. The revisions are for the purpose of satisfying the one-hour ozone attainment demonstration requirements of section 182(c)(2)(A) of the Clean Air Act, for the Boston-Lawrence-Worcester, MA-NH serious ozone nonattainment area. The revision establishes a one-hour attainment date of November 15, 2007 for the Boston-Lawrence-Worcester, MA-NH serious ozone nonattainment area. This revision establishes motor vehicle emissions budgets of 10.72 tons per day of volatile organic compounds (VOC) and 21.37 tons per day of nitrogen oxides (NO_X) to be used in transportation conformity in the New Hampshire portion of the Boston-Lawrence-Worcester, MA-NH serious ozone nonattainment area.

[FR Doc. 02–30840 Filed 12–5–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MA069–7205a; A–1–FRL–7418–6]

Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; One-hour Ozone Attainment Demonstration for the Massachusetts Portion of the Boston-Lawrence-Worcester, MA–NH Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Massachusetts. This action approves Massachusetts' one-hour ozone attainment demonstration for the Massachusetts portion of the Boston-Lawrence-Worcester, MA–NH serious ozone nonattainment area, submitted by the Massachusetts Department of Environmental Protection on July 27, 1998, and supplemented on September 6, 2002. This action is based on the requirements of the Clean Air Act (CAA) as amended in 1990, related to one-hour ozone attainment demonstrations. EPA is establishing an attainment date of November 15, 2007, for the entire multi-state nonattainment area, and is approving the 2007 motor vehicle emissions budgets submitted by Massachusetts for the Massachusetts portion of the nonattainment area. EPA is also finding the 2003 motor vehicle emissions budgets submitted previously by Massachusetts inadequate. A notice of proposed rulemaking was published on this action on October 15, 2002. EPA received comments on that proposal. In this action, EPA responds to those comments.

EFFECTIVE DATE: This rule will become effective on January 6, 2003.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection by appointment weekdays from 9 a.m. to 4 p.m., at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA-New England, One Congress Street, 11th Floor, Boston, MA; and Division of Air Quality Control, Department of Environment Protection, One Winter Street, 8th Floor, Boston, MA 02108. Please telephone in advance before visiting.

FOR FURTHER INFORMATION CONTACT: Richard P. Burkhart, (617) 918–1664.

SUPPLEMENTARY INFORMATION: This supplementary information section is organized as follows:

I. What Massachusetts SIP Revision Is the Topic of This Action?
II. What Previous Action Has Been Taken on This SIP revision?
III. What Motor Vehicle Emissions Budgets (MVEBs) Are We Approving?
IV. What SIP Elements Did EPA Need To Take Action on Before Full Approval of the Attainment Demonstration Could Be Granted?
V. What Comments Were Received on the Proposed Approvals and How Has EPA Responded to Those?
VI. EPA Action
VII. Administrative Requirements

I. What Massachusetts SIP Revision Is the Topic of This Action?

A one-hour ozone attainment demonstration SIP was submitted on July 27, 1998, by the Massachusetts Department of Environmental Protection for the Massachusetts portion of the Boston-Lawrence-Worcester, MA–NH serious ozone nonattainment area. The SIP revision was subject to public notice and comment by the State and a hearing was held in June 1998. A supplement to the attainment demonstration SIP was submitted by the Massachusetts Department of Environmental Protection on September 6, 2002. The attainment demonstration supplement included a reasonably available control measures (RACM) analysis and 2007 motor vehicle emissions budgets for the Massachusetts portion of the Boston-Lawrence-Worcester, MA–NH serious ozone nonattainment area. In the supplement, Massachusetts requested an attainment date for this area of November 15, 2007, and included a demonstration of how attainment will be reached by that date. The supplemental SIP revision was also

subject to public notice and comment by Massachusetts, and a hearing was held in July 2002.

II. What Previous Action Has Been Taken on This SIP Revision?

EPA published a notice of proposed rulemaking (NPR) for the Massachusetts attainment demonstration SIP on October 15, 2002 (67 FR 63586). In that action, EPA proposed to approve the ozone attainment demonstration submitted by the state, which includes a RACM analysis and 2007 motor vehicle emissions budgets with an attainment date of November 15, 2007. The proposed notice states EPA's conclusions regarding the approvability of the various portions of the SIP, which will not be repeated here. EPA also proposed to find the 2003 motor vehicle emissions budgets inadequate. The 2003 budgets were from the Massachusetts ozone attainment demonstration submitted in 1998. Readers are directed to the proposal for further information.

Comments received on the NPR for the attainment demonstration SIP for the Boston-Lawrence-Worcester, MA–NH serious ozone nonattainment area and EPA's responses are discussed in section V. below.

EPA proposed approval of the New Hampshire ozone attainment demonstration for this nonattainment area on October 21, 2002 (67 FR 64582). Final action on the New Hampshire ozone attainment demonstration for the New Hampshire portion of the Boston-Lawrence-Worcester, MA–NH serious ozone nonattainment area can be found in a document published elsewhere in this issue of the **Federal Register**.

III. What Motor Vehicle Emissions Budgets (MVEBs) Are We Approving?

On September 6, 2002, Massachusetts submitted motor vehicle emissions budgets for the 2007 attainment year for the Massachusetts portion of the Boston-Lawrence-Worcester, MA–NH serious ozone nonattainment area in their SIP. The attainment year motor vehicle emissions budgets established by this plan that we are approving are 86.700 tons per day for VOC and 226.363 tons per day for NO_X for the Massachusetts portion of the Boston-Lawrence-Worcester, MA–NH serious ozone nonattainment area. Under EPA's policy[1] for reviewing the adequacy of motor vehicle emissions budget submissions, these budgets were posted on the EPA Web site for public comment on September 17, 2002. As the SIP was available electronically on the Massachusetts Department of Environmental Protection Web site at *www.state.ma.us/dep/bwp/daqc/daqcpubs.htm#sip,* the public comment period was open for thirty days. No comments were received by EPA on these budgets during the adequacy comment period. EPA also received no comments on our October 15, 2002, proposed approval of these budgets. EPA is approving these 2007 motor vehicle emissions budgets because they are consistent with the control measures in the SIP, and the SIP as a whole demonstrates attainment of the 1-hour ozone standard. The rationale for our approval is detailed in the October 15, 2002, proposed action.

EPA is making a finding of inadequacy on the 2003 motor vehicle emission budgets of 117.118 tons per summer day for VOC, and 243.328 tons per summer day for NO_X. As the area will not attain the one-hour ozone standard in the year 2003, the motor vehicle emissions budgets for the year 2003 are no longer consistent with attainment. These 2003 motor vehicle emissions budgets which were submitted on July 27, 1998, were previously found adequate through a February 19, 1999. EPA letter, which we issued prior to EPA's Guidance for Determining the adequacy of the submitted budgets issued November 3, 1999, With this final action these budgets are no longer adequate and can no longer be used in future conformity determinations.

The approved 2007 motor vehicle emissions budgets would apply in all future conformity determinations for an analysis year of 2007 and later. Note that a conformity determination with an analysis year between the present and 2006 would use the year 1999 motor vehicle emissions budgets of 147.108 tons per summer day of VOC and 262.580 tons per summer day of NO_X established in the approved post-1996 rate-of-progress plan for Massachusetts portion of the Boston-Lawrence-Worcester, MA–NH serious ozone nonattainment area (67 FR 55121). However, at this time there is no analysis year required prior to 2007.

IV. What SIP Elements Did EPA Need To Take Action on Before Full Approval of the Attainment Demonstration Could Be Granted?

In the proposed rulemaking for the Massachusetts attainment demonstration SIP published on October 15, 2002, EPA stated that it intended to publish final rulemaking on the Massachusetts Low Emission Vehicle (LEV) program regulations which replaced the previously federally approved Massachusetts LEV I rules either before or at the same time as publication of final approval of the attainment demonstration. Approval of the emission reductions associated with this measure is needed to fully approve the attainment demonstration.

Final approval of Massachusetts LEV SIP was granted by EPA Region I's Regional Administrator on November 26, 2002. This approval will be published elsewhere in the **Federal Register**. The approval LEV SIP will be promulgated at 40 CFR 52.1120(c)(132).

V. What Comments Were Received on the Proposed Approvals and How Has EPA Responded to Those?

EPA received comments on the Notice of Proposed Rulemaking published on October 15, 2002 (67 FR 63586). A letter dated November 13, 2002, from the Alliance of Automobile Manufacturers (''the Alliance'') provided comments on two separate EPA proposed rulemaking notices published in the **Federal Register** on October 15, 2002: EPA's proposed approval of the Massachusetts's one-hour ozone attainment demonstration for the Massachusetts portion of the Boston-Lawrence-Worcester, MA–NH serious ozone nonattainment area (67 FR 63586), and EPA's proposed approval of the Massachusetts low-emission vehicle (LEV) program (67 FR 63583). The following discussion summarizes and responses to the comments that pertain to EPA's proposed approval of the Massachusetts ozone attainment demonstration. Those comments that pertain exclusively to the proposed approval of the Massachusetts LEV program are responded to in the final rulemaking action on that program signed by EPA Region I's Regional Administrator on November 26, 2002. The comments and responses in the Massachusetts LEV notice are included in the record for this final rule and apply to this notice. Publication of the Massachusetts LEV approval notice will be published elsewhere in the **Federal Register**. The approval LEV SIP will be promulgated at 40 CFR 52.1120(c)(132).

Comment: The Alliance states that the two notices published in the **Federal Register** on October 15 (67 FR 63583 and 63586) can be read inconsistently. According to the Alliance, in one notice EPA proposes to fully approve the attainment demonstration SIP revision submitted by Massachusetts, and in the other notice EPA ''explains several reasons why full approval is not appropriate'' for the Massachusetts LEV program.

[1] Memorandum from G. MacGregor, dated May 14, 1999, ''Conformity Guidance on Implementation of March 2, 1999, Conformity Court Decision.''

Response: As stated in the proposed approval of the Massachusetts LEV program (67 FR 63583), EPA proposed to approve all of the components of the LEV program that are necessary to achieve the emission reductions associated with the LEV program, which the state relies on for purposes of its attainment demonstration. In EPA's proposed action on the Massachusetts LEV program, EPA proposed no action on the zero emission vehicle (ZEV) program, however that does not affect the level of emission reductions from the Massachusetts LEV program. The motor vehicle emissions budgets established in the attainment plan do rely on the emission reductions from the December 24, 1999, version of the Massachusetts LEV program, which we are approving elsewhere in the **Federal Register**. This approval of the Massachusetts LEV program does not include the Massachusetts ZEV program. As such, there are no inconsistencies between the two proposed approvals published on October 15, 2002.

Comment: The Alliance requests clarification of one portion of Table 2 in the SIP revision notice (67 FR 63586, at 63591), which states that ''EPA will publish final rules for the CA LEV II SIP before or at the same time as we publish final rules on the attainment demonstration.'' The Alliance state: ''It is impossible to predict with any certainty when the necessary rulemaking will occur in California to amend the current ZEV rule, when the amended California program will be submitted to EPA, and what action EPA will take on that program under section 209. Because California withdrew from EPA's consideration the current version of the ZEV program in July 2002, both EPA and all the affected stakeholders have to await developments in California. We assume that it is not EPA's intent to delay action on the rest of the SIP submittal until EPA can proceed in the manner required by section 209 of the Clean Air Act with respect to ZEV regulations.''

Response: As stated in the proposed approval of the Massachusetts LEV program (67 FR 63583), it was EPA's intent to approve the Massachusetts' December 24, 1999, version of 310 CMR 7.40, the ''Low Emission Vehicle Program'' except for those portions dealing with zero emission vehicles. Since the ZEV portion of the Massachusetts LEV program does not contribute further emission reductions to the attainment demonstration, EPA can fully approve the attainment demonstration, based on its approval of the LEV program, while not taking action on Massachusetts ZEV program. EPA stands by its statement in the proposed rule that it would not take final approval action of the attainment demonstration before it took final action approving the LEV SIP. As explained above, final approval of Massachusetts LEV SIP was granted by EPA Region I's Regional Administrator on November 26, 2002. This approval did not take any action on sections 310 CMR 7.40(2)(a)5, 7.40(2)(a)6, 7.40(2)(a)3, 7.40(10) and 7.40(12) that pertain to the ZEV program.

VI. EPA Action

As described above, EPA does not believe any of the comments received on the proposal published for the attainment demonstration SIP revision for the Massachusetts portion of the Boston-Lawrence-Worcester, MA–NH serious ozone nonattainment area change the basis for our proposed approval. Thus, EPA is approving the ground-level one-hour ozone attainment demonstration SIP for the Massachusetts portion of the Boston-Lawrence-Worcester, MA–NH serious ozone nonattainment area. EPA is also approving the attainment date for this area as November 15, 2007. EPA also approves both the RACM analysis and the 2007 volatile organic compound and nitrogen oxide motor vehicle emissions budgets for the Massachusetts portion of the Boston-Lawrence-Worcester, MA–NH serious ozone nonattainment area for use in transportation conformity. Lastly, EPA is finding the 2003 motor vehicle emissions budgets previously submitted by Massachusetts inadequate.

VII. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 10–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*)

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate,

the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register.** A major rule cannot take effect until 60 days after it is published in the **Federal Register.** This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 4, 2003. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: November 26, 2002.

Robert W. Varney,

Regional Administrator, EPA-New England.

1. Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart W—Massachusetts

2. Section 52.1127 is amended by revising the table to read as follows:

§ 52.1127 Attainment dates for national standards.

Air quality control region	Pollutant					
	SO_2		PM_{10}	NO_2	CO	O_3
	Primary	Sec-ondary				
AQCR 42: Hartford-New Haven-Springfield Interstate Area (*See* 40 CFR 81.26)	(a)	(b)	(a)	(a)	(a)	(c)
AQCR 117: Berkshire Intrastat Area (*See* 40 CFR 81.141)	(a)	(b)	(a)	(a)	(a)	(c)
AQCR 118: Central Mass Intrastate Area (*See* 4r0 CFR 81.142)	(a)	(b)	(a)	(a)	(a)	(d)
AQCR 119: Metropolitan Boston Intrastate Area (*See* 40 CFR 81.19)	(a)	(b)	(a)	(a)	(a)	(d)
AQCR 120: Metropolitan Providence Interstate Area (*See* 40 CFR 81.31)	(a)	(b)	(a)	(a)	(a)	(d)
AQCR 121: Merrimack Valley-Southern NH Interstate Area (*See* 40 CFR 81.81)	(a)	(b)	(a)	(a)	(a)	(d)

a. Air quality presently below primary standards or area is unclassifiabale.
b. Air quality levels presently secondary standatrds or area is unclassifiable.
c. December 31, 2003.
d. November 15, 2007.

3. Section 52.1129 of subpart W is amended by adding paragraph (d) to read as follows:

§ 52.1129 Control strategy: Ozone.

* * * * *

(d) Approval—Revisions to the State Implementation Plan submitted by the Massachusetts Department of Environmental protection on July 27, 1998, and September 6, 2002. The revisions are for the purpose of satisfying the one-hour ozone attainment demonstration requirements of section 182(c)92)(A) pof the Clean Air Act, for the Boston-Lawrence-Worcester, MA–NH serious ozone nonattiainment area. The revision establishes a one-hour attainment date of November 15, 2007l, for the Boston-Lawrence-Worcester, MA–NH serious ozone nonattainment area. This revision establishes motor vehicle emissions budgets for 2007 of 86.7 tons per day of volatile organic compounds and 226.363 tons per day of nitrogen oxides to be used in transportation conformity in the Massachusets portion of the Boston-Lawrence-Worcester, MA–NH serious ozone nonattainment area.

[FR Doc. 02–30841 Filed 12–5–02; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 61

[ND–001–0005a & 0007a; FRL–7419–1]

Clean Air Act Approval and Promulgation of Air Quality Implementation Plan Revision for North Dakota; Withdrawal of Direct Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: EPA has received adverse comments on our October 7, 2002 direct final rule (see 67 FR 62395) to approve revisions to various air pollution control rules in the North Dakota State Implementation Plan (SIP), which were submitted by the Governor of North Dakota with a letter dated June 21, 2001. In the October 7, 2002 direct final rule (67 FR 62395), we stated that if we received adverse comments by November 6, 2002, the direct final rule would be withdrawn and would not take effect. EPA has received adverse comments from the Dakota Resource Council, submitted with a letter dated November 6, 2002. The comments are specific to the North Dakota air pollution control rule regarding prevention of significant deterioration. Therefore, the sections of the direct final rule regarding the revisions to the North Dakota air pollution control rules are being withdrawn and all public comments received will be addressed in a subsequent final rule based on EPA's October 7, 2002 proposed rule (*see* 67 FR 62432). EPA will not institute a second comment period on this action.

Please note that this withdrawal does not withdraw or impact the sections of EPA's October 7, 2002 direct final rule regarding notice of delegation of authority for New Source Performance Standards nor the change to the